

### **REMARKS**

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Claims 1 and 3 are now present in this application. Claim 1 is independent. By this Amendment, the Abstract of the Disclosure has been amended to reduce the number of words to 150, claim 2 has been canceled, and claims 1 and 3 have been amended. Reconsideration of this application, as amended, is respectfully requested.

#### **Priority Under 35 U.S.C. § 119**

Applicant thanks the Examiner for acknowledging Applicant's claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document.

#### **Information Disclosure Citation**

Applicant thanks the Examiner for considering the references supplied with the Information Disclosure Statement filed April 27, 2005, and for providing Applicant with an initialed copy of the PTO-SB08 form filed therewith. Applicant notes that the Examiner failed to initial JP-2000-316971 A. Applicant assumes that the reference was considered and respectfully requests an initialed copy thereof from the Examiner in the next Office Action.

Regarding the Supplemental IDS submission filed on August 29, 2005, that submission was an English translation of the International Preliminary Search Report from WIPO that was the basis for the April 27, 2005 IDS submission.

#### **Objection to the Drawings**

The Examiner has objected to the drawings because “the distance measuring means, the capacity calculating means, the difference calculating means, and the registration means must be shown or the features canceled from the claims.

The Examiner further states “[i]t appears that these features are shown in Figure 3 but are described in the specification as a distance calculating program, a capacity calculating program, a difference calculation program, and a registration program.” Therefore, it is not clear to

Applicant what is the basis for the Examiner's objection as the Office Action states that the claimed features "appear to be shown in Figure 3." Accordingly, reconsideration and withdrawal of this objection are respectfully requested.

### **Objection to the Abstract of the Disclosure**

The Examiner has objected to the Abstract of the Disclosure because it was too long.

In order to overcome this objection, Applicant has amended the Abstract of the Disclosure to shorten it. Accordingly, reconsideration and withdrawal of this objection are respectfully requested.

### **Claim Objection**

The Examiner has objected to claims 2 and 3 because of an informality. In order to overcome this objection, Applicant has amended claim 1 in order to correct the deficiency pointed out by the Examiner. Reconsideration and withdrawal of this objection are respectfully requested.

### **Rejection Under 35 U.S.C. § 102**

Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Crankshaw. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, Applicant respectfully submits that independent claim 1 has been amended to recite a combination of elements in a syringe pump including "outside diameter detecting means for detecting the outside diameter of the syringe held by said holding portion", "capacity calculating means for calculating the capacity of the syringe based on the outside diameter of syringe detected by said outside diameter detecting means and the travel distance of plunger measured by said distance measuring means", "difference calculating means for calculating a difference between the capacity of syringe calculated by said capacity

calculating means and the capacity of syringe input by said input means”, and “registration means which accepts storage of the capacity of the syringe input by said input means in said storage means if the difference in capacity of syringe calculated by said difference calculating means is within a predetermined range.” Applicant respectfully submits that this combination of elements as set forth in independent claim 1 is not disclosed or made obvious by the prior art of record, including Crankshaw.

Applicant respectfully submits that the present invention as set forth in amended claim 1 is novel over Crankshaw because if the difference between the capacity of the syringe input by the user and the capacity of the syringe calculated based on the detected outside diameter and the travel distance of the plunger is within a predetermined range, the capacity of the syringe input is accepted to be stored in the storage means.

On the other hand, Crankshaw does not distinguish whether to accept or prohibit the registration of data according to the calculation of the capacity difference. Rather Crankshaw discloses that when the syringe is a non-standard syringe (that is, when the syringe volume corresponding to the measured diameter based on the output of the clamping arm potentiometer 24 is not stored in EEPROM 23), the controller must be manually programmed or recalibrated. *See* col. 5, line 34 to col. 6, line 2. To program, an empty syringe is loaded into the syringe cradle 2, and data indicating the plunger position to empty the syringe based on the output of the potentiometer 25 indicating the position of the syringe actuator 7 when the microswitch 9 detects that the plunger has traveled to the distal end of the syringe, is transmitted to the controller 20. *See* Figs. 1-3 and col. 7, lines 47-64. In other words, there is no independent verification of the capacity of the syringe input by the user within a predetermined range.

Therefore, Crankshaw cannot anticipate independent claim 1, and the 35 U.S.C. § 102 rejection must be withdrawn. Claim 3 is allowable for at least the same reasons as claim 1, from which it depends.

**CONCLUSION**

Since the remaining references cited by the Examiner have not been utilized to reject the claims, but have merely been cited to show the state of the art, no comment need be made with respect thereto.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone James T. Eller, Jr., Registration No. 39,538, at (703) 205-8000, in the Washington, D.C. area.

Prompt and favorable consideration of this Amendment is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

By 

Paul C. Lewis

Registration No.: 43,368

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicant